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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,897	03/17/2004	Todd L. DePue	1-74557	4617
27377	7590	04/26/2005	EXAMINER	
MACMILLAN, SOBANSKI & TODD, LLC ONE MARITIME PLAZA-FOURTH FLOOR 720 WATER STREET TOLEDO, OH 43604			STERLING, AMY JO	
		ART UNIT		PAPER NUMBER
				3632

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/802,897	DEPUE ET AL.	
	Examiner	Art Unit	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 March 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) 18 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17, 19 and 20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 17 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/14/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

This is the first Office Action for application number 10/802,897, Cup Holder with Sensor, filed on 3/17/04. Claims 1-20 are pending.

Election/Restrictions

Claim 18 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/8/05.

Applicant's election with traverse of the election of species in the reply filed on 3/8/05 is acknowledged. It is persuasive in part and non-persuasive in part. The applicant has argued that Species I, Figs. 1-4 should be joined with Species II, Fig. 6 and 7 because both species contain a rotational arm, the searching of both which would not create an undue burden to the examiner. This is persuasive and Species II now contains Figs. 1-4, the embodiment of the plural rotational arms. The other traversal is on the ground(s) that the embodiments of Fig. 5 would not cause any undue hardship in the search. This is not found persuasive because the support members as disclosed in Fig. 5 shows vertically sliding support arms which cause burdensome searching, requiring the searching of other support areas.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

The information disclosure statement submitted on 6/14/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of sensors" of claim 3 and the "spring" of claim 17 and the "gear rack, cam assembly and linear tooth rack" of claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17 and 19 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How the "spring" is mounted to the device is not enabled by the specification. The mounting and use of the "gear rack assembly and the linear tooth rack" is not adequately disclosed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 6-10, 13, 14 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent Publication No. 2004/0031895 to Langhoff.

The patent to Langhoff discloses a multi-purpose holder having a body (12, 18, 15) having a substantially horizontal support surface (15), the body (12, 18, 15) which defines a recess for receiving an article (16) if so desired, a moveable inflatable flexible bladder support member (24), moveable in a generally horizontal direction between a retracted position and an extended position, to surround at least a portion of the article, a sensor (See page 2, paragraph 0017) adapted to generate a signal that is a function of the presence or the desired position of the support member such as a pressure sensor (page 2, paragraph 0017) and an actuator (25, 26, 30) selectively coupled to the support member (24), the support member which is moveable by the actuator to a position which is adjacent to an article.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6230948 to Steiger et al.

Steiger et al. teaches a multi-purpose holder having a support member which is a pivotally moveable arm (5), a sensor (20) which is capable of generating a signal of a

desired position of the support member, an actuator (10) selectively coupled to the support member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2004/0031895 to Langhoff as applied to claim 1, 7 and 10 above.

Langhoff discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not specifically show that a plurality of sensors are used and that specifically where the sensor is positioned. Langhoff discloses that a sensing means (page 2, paragraph 0017) is used which inherently may include a plurality of sensing devices, including several pressure sensors, used for increased accuracy of the pressure reading. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Langhoff to have used a plurality of sensors in order to improve the accuracy of the reading. Also, it would be obvious to one of ordinary skill in the art to have positioned the sensor near the support surface of the body, in order to be able to

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sense the article to which is inserted into the recess. If the sensing device were far away, it would not easily detect the pressure from the article.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2004/0031895 to Langhoff as applied to claim 1 above and further in view of United States Patent No. 5103279 to Gutteridge.

Langhoff discloses the basic inventive concept with the exception that it does not specifically teach that the sensor is a field effect device.

Gutteridge discloses a field effect sensor which is used to sense pressure (See Col. 1 lines 6-9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Gutteridge to have used a field effect sensor for the pressure sensor application, in order to accurately sense an input of pressure.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Publication No. 2004/0031895 to Langhoff as applied to claim 1 above and further in view of United States Patent Publication No. 2004/0129885 to McKenney.

Langhoff discloses the basic inventive concept with the exception that it does not specifically teach that the sensor is an optical sensor.

McKenney discloses a motion detecting optical sensor which is used to detect motion without pressure to the sensor (See Page 1, paragraph 005). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was

made from the teachings of McKenney to have used a field effect sensor for the pressure sensor application, in order to accurately sense an input of pressure.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6230948 to Steiger et al. as applied to claim 1 above and further in view of United States Patent No. 6657589 to Wang et al.

Steiger et al. discloses the basic inventive concept including teaching a controller (15), but does not specifically teach that the controller has a microprocessor.

Wang et al. teaches a device in which a sensor (See Col. 5 lines 32-35) sends a signal to a controller which has a microprocessor which is capable of feeding a signal to an actuator (motor 114), the microprocessor used for its quick delivery of information. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Wang et al. to have used a microprocessor in the controller in order to quickly deliver information to the actuator.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various multi-purpose holders
2004/0079850 to Takahashi
2002/0008127 to Glovatsky et al.
6843397 to Then et al.

5171061 to Marcusen

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (Mon-Fri 8am-5:00pm). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments), informal amendments or communications 571-273-6823. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

Amy J. Sterling
Amy J. Sterling
4/17/05